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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,693	03/30/2004	Brad Sutter	101-68	4074
24336	7590	07/07/2005		
KEUSEY, TUTUNJIAN & BITETTO, P.C. 14 VANDERVENTER AVENUE, SUITE 128 PORT WASHINGTON, NY 11050			EXAMINER	LINDSEY, RODNEY M
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/812,693	SUTTER ET AL.	
	Examiner	Art Unit	
	Rodney M. Lindsey	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-36 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 March 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/30/4,3/28/5</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the hook and loop fastener as set forth in claim 6 and in claim 28 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: basis should be provided for the limitations of claims 2 and 3.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 13, 16 and 19-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 13 "the suspension system", in claim 16 "the suspension system" and in claim 19 "the suspension system", all, have no antecedent basis.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1,2,13,16,31 and 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molitoris in view of Medwell. Molitoris shows a shell 10, a suspension band 20, an adjustable headband 24, a crown pad 36 and connectors 27, 30 securing the headband and crown pad to the suspension band without screws. Molitoris does not teach the shell being formed of para-aramid to provide ballistic protection. Medwell teaches (see column 3, line 7) that the use of para-aramid to provide ballistic protection is old and well known to those of ordinary skill in

the art of military helmets. It would have been obvious to one of ordinary skill in the art at the time of the invention to form the shell of Molitoris of the para-aramid of Medwell to achieve the advantage of effecting a ballistic protection characteristic to the shell. With respect to claim 2 note such further teaching of Medwell (see column 3, lines 9-12) in effecting the ballistic protection characteristic to the shell. With respect to claim 13 note the nape pad 38 of Molitoris. With respect to claim 16 note chin strap subassembly at 13 of Molitoris. With respect to claim 31 note such an arrangement of the crown pad as shown in Figure 2. With respect to claim 33 note such an arrangement of the suspension band as shown in Figure 2. With respect to claims 34-36 note the portions of 24 between connectors 27 as shown in Figure 2.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Molitoris in view of Medwell as applied to claim 1 above, and further in view of Lammers et al. Molitoris does not teach painting the shell. Lammers et al. teach that painting the shell is old and well known (see column 2, line 41). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the shell of Molitoris with the paint of Lammers et al. to achieve the advantage of effecting a desired appearance for the shell.

8. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molitoris in view of Medwell as applied to claim 1 above, and further in view of Dauster. With respect to claim 4 note the loops at 27 of Molitoris directly securing the headband to the suspension band and note the straps 30 and loop 35 of Molitoris securing the crown pad to the suspension band. Molitoris does not teach the use of loops to secure the crown pad to the suspension band. Dauster teaches that it is old in the art to use loops 12 with straps 6 to connect a crown pad of a headgear. It would have been obvious to one of ordinary skill in the art at the time of the

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invention to substitute the loops 12 of Dauster for the loop 35 of Molitoris to achieve a like result of securing the crown pad to the suspension band. With respect to claim 9 note the first and second rear loops established by the included loops 12 and loops of the straps 30 of the modified helmet of Molitoris.

9. Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molitoris in view of Medwell and Dauster as applied to claim 4 above, and further in view of Kallis and Durand et al. With respect to claim 5 Molitoris does not teach the loops for the headband and suspension band being formed of nylon and including hook and loop fasteners. Kallis teaches old the use of a headband including loops having hook and loop fasteners. Durand et al. teaches old the use of nylon in suspension systems. It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the headband of Kallis for that of Molitoris to achieve the advantage of having the headband be detachable. It would have been obvious to one of ordinary skill in the art at the time of the invention to employ nylon in the suspension system of Molitoris as claimed for the advantage of the strength offered by nylon. With respect to claim 7 note the looped straps as at 24, 25 as taught by Kallis.

10. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Molitoris in view of Medwell, Dauster, Kallis and Durand et al. as applied to claim 5 above, and further in view of Boden. The modified helmet of Molitoris does not teach another hook and loop fastener as claimed. Boden teaches old the use of a hook and loop fastener for securing a headband to a headgear. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the headband of Molitoris with the hook and loop fasteners of Boden thus establishing another hook and loop fastener for engaging the headgear or shell.

11. Claims 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molitoris in view of Medwell and Dauster as applied to claims 4 and 9 above, and further in view of Durand et al. With respect to claims 8 and 10 Molitoris does not teach the loops and straps for the crown pad and suspension band being formed of nylon. Durand et al. teaches old the use of nylon in suspension systems. It would have been obvious to one of ordinary skill in the art at the time of the invention to employ nylon in the suspension system of Molitoris as claimed for the advantage of the strength offered by nylon.

12. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Molitoris in view of Medwell as applied to claim 1 above, and further in view of Aileo et al. Molitoris teaches the use of fasteners 22 but does not teach that the fasteners are made of metal. Aileo et al. teach that the use of metal fasteners are old and well known (see column 1, lines 15-20. It would have been obvious to one of ordinary skill in the art at the time of the invention to form the fasteners of Molitoris with the metal of Aileo et al. to achieve the expedience of employing well known fastener material.

13. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Molitoris in view of Medwell and Aileo et al. as applied to claim 11 above, and further in view of Aileo. Molitoris does not teach the fasteners comprising a screw and a clip. Aileo in Figure 9 at 47 teaches old the use of fasteners in the form of a screw and clip. It would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the screw and clip of Aileo for the fasteners at 22 of Molitoris to achieve a like result of attaching the suspension band to the shell.

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14. Claims 14, 15, 17, 18, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molitoris in view of Medwell as applied to claim 13 above, and further in view of Aileo et al. and Mirabella. With respect to claims 14, 17 and 19 Molitoris teaches fasteners 22 but does not teach the fasteners being metal and attaching the nape pad to the shell. Molitoris teaches the use of fasteners 22 but does not teach that the fasteners are made of metal. Aileo et al. teach that the use of metal fasteners are old and well known (see column 1, lines 15-20. It would have been obvious to one of ordinary skill in the art at the time of the invention to form the fasteners of Molitoris with the metal of Aileo et al. to achieve the expedience of employing well known fastener material. Mirabella teaches that it is old to combine a nape pad at 81 and a chin strap at 38 with a suspension band at 26, 28 such that the nape pad and chin strap are attached to the shell by fasteners 60, 62. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the helmet of Molitoris by forming the nape pad and/or chin strap integral with the suspension band in the manner of Mirabella such that they are attached to the shell by the same fasteners for attaching the suspension band. With respect to claims 15, 18 and 20 the fasteners of Molitoris are inherently capable of functioning to permit adjustment as claimed as they accommodate the adjusting nape pad and chin strap.

15. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molitoris in view of Medwell as applied to claim 1 above, and further in view of Mirabella. With respect to claim 28 Molitoris does not teach the headband being of nylon and with hook and loop fasteners for adjusting its circumference. Mirabella teaches at 30, 32 the use of nylon and hook and loop fasteners. It would have been obvious to one of ordinary skill in the art at the time of the invention to form the headband of Molitoris of the nylon and hook and loop fasteners

of Mirabella to achieve the advantage of strength afforded by the nylon and of circumferential adjustability afforded by the hook and loop fasteners. With respect to claim 29 Molitoris does not teach the use of leather on the headband. Mirabella at 115 teaches the use of leather. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the headband of Molitoris with the leather of Mirabella to achieve the advantage of accommodating a user's sweat.

16. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Molitoris in view of Medwell as applied to claim 1 above, and further in view of Durand et al. With respect to claim 30 Molitoris does not teach the suspension band being formed of nylon. Durand et al. teaches old the use of nylon in suspension systems. It would have been obvious to one of ordinary skill in the art at the time of the invention to employ nylon in the suspension system of Molitoris as claimed for the advantage of the strength offered by nylon.

17. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Molitoris in view of Medwell as applied to claim 1 above, and further in view of Aileo et al. and Mirabella. Molitoris does not teach the use of leather and a nylon mesh in forming the crown pad. Aileo et al. teach old the use of leather and mesh to engage the crown of a user. Mirabella teaches old the use of nylon in a suspension system. It would have been obvious to one of ordinary skill in the art at the time of the invention to form the crown pad of Molitoris of the leather and mesh of Aileo to achieve the advantage of lightweight and comfort. It would have been obvious to one of ordinary skill in the art at the time of the invention to additionally form the crown pad of nylon for the strength afforded by nylon.

Allowable Subject Matter

18. Claims 21-27 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note particularly, the similar helmet suspension systems of Wu et al., Immel, Militello, Groot, Galet, Myers et al., Marietta, Dye et al., Gordon, Erlendson, Holt and Marietta '674.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Lindsey whose telephone number is (571) 272-4989. The examiner can normally be reached on M-F (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Rodney M. Lindsey

Primary Examiner

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